

13-3404.01. Possession or sale of precursor chemicals, regulated chemicals, substances or equipment; exceptions; classification

A. A person shall not do any of the following:

1. Knowingly possess a precursor chemical II.
2. Knowingly possess more than twenty-four grams of pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine without a license or permit issued pursuant to title 32, chapter 18.
3. Knowingly purchase more than three packages, not to exceed nine grams of pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine without a valid prescription order as defined in section 32-1901 or a license or permit issued pursuant to title 32, chapter 18.
4. Knowingly possess any ephedrine that is uncombined or that is the sole active ingredient of a product or more than twenty-four grams of ephedrine that is combined with another active ingredient in any ephedrine product without a license or permit issued pursuant to title 32, chapter 18.
5. Knowingly purchase any ephedrine that is uncombined or is the sole active ingredient of a product or more than three packages, not to exceed nine grams of ephedrine that is combined with another active ingredient in any ephedrine product without a license or permit issued pursuant to title 32, chapter 18.
6. Sell, transfer or otherwise furnish any precursor chemical, regulated chemical or other substance or equipment with knowledge that the recipient will use the precursor chemical, regulated chemical, substance or equipment to unlawfully manufacture a dangerous drug or narcotic drug.
7. As a manufacturer, wholesaler or retailer, knowingly possess any precursor chemical or regulated chemical from which the label, the national drug control number or the manufacturer's lot number has been removed, altered or obliterated, except that a licensed manufacturer may relabel products as permitted under the federal act.
8. Knowingly sell, transfer or otherwise furnish more than nine grams of any precursor chemical without a license or permit issued pursuant to title 32, chapter 18.
9. Sell, transfer or furnish ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine in a total amount of more than nine grams in a single transaction in this state unless the recipient possesses a valid and current permit issued by the board pursuant to title 32, chapter 18.
10. Sell, transfer or otherwise furnish a precursor chemical in violation of any rule of the board or the department of public safety.
11. As a wholesaler or retailer, purchase or otherwise acquire or receive a precursor chemical from any person who does not possess a valid and current permit issued pursuant to title 32, chapter 18.
12. Knowingly participate in any transaction or series of transactions that is structured by any person with the intent to avoid or circumvent the prohibitions or limits on sales established by this section.

B. A retailer shall not knowingly sell, transfer or otherwise furnish a precursor chemical unless:

1. The transaction occurs in the normal course of business at premises that are permitted pursuant to title 32, chapter 18.
2. The retailer has a valid and current permit that is issued pursuant to title 32, chapter 18 and that is prominently displayed at the premises where the transaction occurs.
- C. A retailer shall not sell more than a total of three packages, not to exceed nine grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine in a single transaction unless the person has a valid prescription order as defined in section 32-1901.
- D. A wholesaler shall not sell, transfer or otherwise furnish a precursor chemical to any person unless:
 1. The wholesaler has a valid and current permit issued pursuant to title 32, chapter 18.
 2. The recipient has a permit issued pursuant to title 32, chapter 18, is a pharmacy or is a practitioner.
 3. The transaction does not involve payment in cash or money orders in an amount of more than one thousand dollars.
- E. A manufacturer shall not sell, transfer or otherwise furnish a precursor chemical to any person unless:
 1. The recipient is licensed or has a permit issued pursuant to title 32, chapter 18, is a pharmacy or is a practitioner.
 2. The transaction does not involve payment in cash or money orders in an amount of more than one thousand dollars.
- F. This section does not apply to any of the following:
 1. The transfer by a licensee or permittee to a reclamation facility for destruction.
 2. The movement from one facility of a licensee or permittee to another facility of the same licensee or permittee without sale.
- G. Notwithstanding any other law, a county, city or town shall not enact an ordinance that is more restrictive than the requirements of this section.
- H. A violation of subsection A, paragraph 1 or 6 is a class 2 felony. A violation of subsection A, paragraph 2, 3, 4, 5, 7, 9, 11 or 12 is a class 5 felony. A violation of subsection A, paragraph 8 or 10 is a class 6 felony. A violation of subsection B, D or E is a class 5 felony. A violation of subsection C is a class 5 felony, except that if the violation involves less than a total of fifty grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine, the first violation is a class 2 misdemeanor and the second violation is a class 1 misdemeanor. An enterprise is not criminally accountable for a violation of subsection C unless the conduct constituting the offense is engaged in, authorized, commanded or recklessly tolerated by the directors of the enterprise in any manner or by a high managerial agent acting within the scope of employment.